

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:14-cv-00075-MR
(CRIMINAL CASE NO. 1:11-cr-00104-MR-DLH-1)**

VINCE EDWARD RAY,)
Petitioner,)
vs.) **O R D E R**
UNITED STATES OF AMERICA,)
Respondent.)
_____)

THIS MATTER is before the Court on its own motion following the filing of Respondent's Motion to Dismiss [Doc. 7], as well as on Petitioner's Motion Seeking Filing of 2255 and Subsequent Proceedings under Seal [Doc. 2] and Petitioner's Motion for Leave and Time to File a Reply [Doc. 5].

On March 24, 2014, Petitioner filed a motion to vacate pursuant to 28 U.S.C. § 2255. [Doc. 1]. He also filed a motion to file his motion to vacate and subsequent pleadings under seal. [Doc. 2].

On August 6, 2014, the Court ordered the Government to answer or otherwise respond to Petitioner's motion to vacate within sixty (60) days. [Doc. 4]. Thereafter, Petitioner filed a motion seeking forty (40) days from

the Government's filing in which to file a reply. [Doc. 5]. The Government filed a motion to dismiss on October 6, 2014. [Doc. 7].

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises Petitioner, who is proceeding *pro se*, that he has a right to respond to the Government's motion to dismiss. The Court also advises Petitioner that failure to respond may result in dismissal of the motion to vacate. Petitioner's motion for leave and time to file a reply is granted to the extent that the Court will allow him thirty (30) days to respond to the motion to dismiss.

As to Petitioner's motion to seal, Petitioner seeks to have his 2255 petition and related documents sealed under Federal Rule of Criminal Procedure 49.1, based on his contention that he provided substantial assistance to the Government in his underlying criminal action and it would be a detriment to his safety to have these papers available to the public. The documents in the underlying criminal action have all been sealed, however, and none of the pleadings in this action reveal any details regarding Petitioner's assistance to the Government in the underlying criminal action. Thus, the motion to seal will be denied.

IT IS, THEREFORE, ORDERED that:

1. Petitioner shall respond to the pending Motion to Dismiss [Doc.

- 7] no later than thirty (30) days from entry of this Order. Failure to file a timely response will likely lead to the dismissal of this lawsuit.
2. Petitioner's Motion Seeking Filing of 2255 and Subsequent Proceedings under Seal [Doc. 2] is **DENIED**.
 3. Petitioner's Motion for Leave and Time to File a Reply [Doc. 5] is **GRANTED IN PART** to the extent that the Court is allowing him thirty (30) days to respond to the motion to dismiss.

IT IS SO ORDERED.

Signed: October 8, 2014



Martin Reidinger
United States District Judge

